

enhancing traceability of small arms and light weapons flows

developing an international marking and tracing regime

Briefing 5

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Enhancing Traceability of Small Arms and Light Weapons Flows: Developing an International Marking and Tracing Regime

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Executive Summary

Efforts to combat and prevent illicit trafficking and proliferation of small arms and light weapons (SALW) are obstructed by lack of capacity to trace sources and lines of supply for arms. Such efforts are necessary in order to identify points of diversion or loss of responsible control so that actions can be taken to tackle the problems. This hampers efforts to prevent future loss and diversion, for example, or to close down unauthorised or destabilising arms supply networks.

Measures to enable tracing of sources and lines of supply of SALW are therefore a priority. Because of the international scope of the flows of SALW, such measures need to be taken by all states and all other relevant members of the international community. International standards and mechanisms to enable tracing need to be established and developed as a priority.

An effective international system to enable tracing of sources and flows of SALW requires three essential elements: adequate marking to uniquely identify each weapon; detailed and accessible record-keeping; and mechanisms for international co-operation in tracing sources and lines of supply of SALW. At present there are substantial weaknesses and problems in each of these three areas.

In developing an international tracing regime for SALW, two distinct but interrelated challenges need to be addressed:

- The need to enhance capacity to trace sources and lines of supply of SALW that are already in existence, particularly those weapons that are already a cause for concern. For these, the priority is to improve international co-operation in tracing, making use of the marks and records that exist.
- The need to ensure that every SALW that is manufactured or released into circulation from now on can be traced, so that over time an increasing proportion of weapons in circulation are adequately and reliably marked and recorded. For this task, international agreed minimum standards for marking and record-keeping are necessary, together with mechanisms to promote implementation and best practice.

International awareness of the need to take measures to enhance traceability of SALW developed rapidly in the late 1990s. Significant progress has been made toward developing international consensus on basic principles and norms that should be adopted, though: the 1999 Report of the UN Group of Experts; regional agreements, particularly by the members of the OAS, OSCE, and SADC; negotiations towards a UN Protocol on illicit trafficking in firearm; and recent initiatives by manufacturers and by France and Switzerland.

The UN 2001 Conference should build on this emerging international consensus, and take decisions that contribute substantially to the establishment of an effective international tracing regime for SALW. The overall regime should rest primarily on two pillars. One of these, established through the UN Firearms Protocol, will focus on enabling tracing of illicit trafficked firearms associated with transnational organised crime. The other pillar, established through the UN 2001 Conference process, should enable tracing of arms that contribute to proliferation of SALW. The two pillars should be complementary and mutually reinforcing.

A key objective of the UN 2001 Conference thus should be to establish international standards and mechanisms to enable tracing of sources and flows of arms that contribute to excessive and destabilising accumulations and transfers of SALW, including illicit or unauthorised flows linked with conflicts and terrorist or insurgent groups.

Executive Summary

To pursue this objective, the UN 2001 Conference should establish a set of international principles and standards on marking, record-keeping and tracing of SALW. It should further launch negotiations for a detailed (and preferably legally binding) tracing agreement, which sets out necessary rules and obligations and establishes appropriate programmes and mechanisms for international co-operation and assistance to promote implementation.

On co-operation in tracing, the UN 2001 Conference should establish the norm that every state should ensure that it co-operates in efforts to trace arms that contribute to excessive and destabilising accumulations and flows of SALW. They should thus respond promptly and accurately to requests from other appropriate authorities to assist them in their efforts to trace sources and lines of supply of SALW of concern. Follow-on negotiations will need to clarify in detail how these norms should be implemented on issues such as: which bodies have tracing rights; what information should be provided, and how should it be used; and who can decide whether a SALW is a weapon of concern to be traced using the international co-operation mechanism.

On marking and record-keeping, the UN 2001 Conference should establish the norms recommended in the UN Group of Experts on Small Arms report, perhaps developed to take into account language agreed by regional organisations, such as the OSCE. Follow-on negotiations could develop detailed standards and best practice guidelines relating to issues such as: rules and techniques for marking each type of SALW; marking rules of existing stockpiles; promoting use of techniques that ensure that identifying marks are hard to remove; and agreed minimum standards for record-keeping.

An international tracing agreement for SALW should establish mechanisms and programmes to promote its implementation and further development. These should include measures to promote: information exchange; best practice; international assistance; and involvement of industry, experts and other civil society groups.

Introduction

The excessive availability and flows of small arms and light weapons (SALW) contribute to human suffering and insecurity throughout much of the world. They escalate, intensify and prolong conflicts in many areas, and exacerbate banditry, crime and social violence. In doing so, they impede development, post-conflict re-construction and peacebuilding.

Uncontrolled and destabilising flows of small arms come from many sources. Nearly all originate from authorised manufacturers or from official weapons stockpiles. Many of the weapons of concern are then somehow acquired by disreputable dealers, criminal groups, terrorists or insurgent groups, and transferred to other countries and regions through illicit trafficking. Illicit arms supply networks often involve legal arms purchases or transfers, which are subsequently diverted to unauthorised recipients. However, transfers of large quantities of the weapons that contribute to problems are also supplied from states that do not exercise adequate restraint in authorising exports of SALW or sufficient control over authorised weapons holdings.

Efforts to combat illicit arms trafficking are hampered by inadequate systems for tracing lines of supply of weapons, which clarify the chain of transactions that led to diversion or misuse and, to identify and close down illicit arms supply networks. Similarly, measures to promote appropriate state control and restraint over transfers or holdings of SALW are undermined by weak systems for establishing accountability for irresponsibility or negligence.

Measures to enhance capacity to identify small arms and light weapons and trace their sources and lines of supply are therefore a priority. An effective international system to increase the traceability of flows of SALW requires three key elements:

- adequate marking of each weapon;
- adequate record-keeping;
- mechanisms for international co-operation in tracing lines of supply of weapons.

Primary responsibility for establishing these three elements rests with governments. However, regional and international organisations, including the United Nations, have an important role to play, as do manufacturers, technical experts and others sections of civil society. Arms flows take place on a global scale: the entire international community needs to be involved in efforts to ensure traceability, as part of a wider effort to combat and prevent illicit trafficking and promote accountability and restraint over transfers of SALW.

The United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects provides an important opportunity to establish agreements and programmes to move towards achieving an effective tracing regime for SALW. This briefing aims to identify and discuss ways in which the UN 2001 Conference can contribute to this goal.

It examines overall requirements for such a tracing regime, and the ways in which agreements established through the UN 2001 Conference process can complement and reinforce relevant obligations established at the regional level and through the negotiations for the UN Protocol against the illicit manufacturing of and trafficking in firearms.

A tracing regime offers no panacea for tackling the complex problem of small arms proliferation and misuse. The international action programme on the illicit trafficking, proliferation and misuse of small arms and light weapons, to be established at the UN 2001 Conference, needs to be comprehensive in scope and consist of a range of measures to address the full variety of factors associated with proliferation and misuse of SALW. Nevertheless, measures to enhance capacity to trace flows of weapons can make a major contribution to efforts to combat illicit trafficking and enhance controls on authorised transfers and stocks of small arms and should be pursued where possible.

The Problem

Inadequate marking

Most small arms and light weapons are marked at the point of manufacture, for example with a serial number and manufacturer's mark that is stamped, etched or engraved into metallic parts of the weapon. Most arms manufacturers and states maintain records on the weapons produced and to whom they were supplied. Moreover, most governments are willing in principle to co-operate with efforts by law enforcement agencies from other countries to trace weapons that have been used in a crime.

In practice, however, there are many problems. Large numbers of weapons were not marked at the point of manufacture, and this practice appears to continue in some industrialised and developing countries. Some manufacturers of unmarked or inadequately marked arms may be motivated by an understanding that some of their customers may use their weapons for dubious or illicit purposes. However, some reputable companies also appear to produce unmarked weapons for special customers, particularly their own governments. Some governments appear to ask manufacturers not to mark small arms produced for their armed forces, so that identifiers can be added later once they have been distributed to relevant military units. The problem is that stockpiled weapons may be lost or stolen before they are marked. Also, the marks applied subsequently can generally be relatively easily removed: sometimes they are simply lightly stamped or painted onto the weapon.

Moreover, where they exist, the marks often contain insufficient information for unique identification and reliable tracing. It appears that some manufacturers use the same serial numbers several times. In other cases, the markings do not unambiguously identify the place and date of manufacture and the manufacturer, or even the country of origin. In most cases, this is a result of sloppy practices and inadequate or inconsistent national regulations, rather than a deliberate attempt to hinder tracing. However, there are suspicions that a few disreputable manufacturers even mark their weapons with false information. For example, some Russian experts charge that substantial numbers of AK-47s of apparently Russian origin were actually produced elsewhere.

Removable marks

Criminals and other illicit or covert weapons users are often able to remove serial numbers and other identifiers from properly marked arms. For example, stamped or engraved marks can be removed with a metal file. However, some marks are harder to remove than others. For example, experts can generally recover stamped marks even when they have been removed by grinding, by revealing underlying metallurgical deformations caused by the original stamping process. Some existing marking techniques make removal of marks much easier than it needs to be, and complicate the task of recovering identifying features.

Inadequate record-keeping

However, the problems do not only relate to standards of marking. Attempts to trace a fully and uniquely marked weapon are frequently frustrated by inadequate record-keeping. Records are often widely dispersed and time-consuming to access. Countries differ in the types of information they require to be kept, and in some cases ambiguous and vague rules exacerbate the difficulty. In many countries, the records are maintained by the companies involved rather than in a central register, and are sometimes disorganised or lost after changes of location, ownership or bankruptcy. Records kept by dealers or local authorities of sales or changes of ownership of small arms are often less adequate than the production records of the manufacturer.

The Problem

Problems with tracing

Such factors mean that efforts by the police, for example, to trace small arms can be a time-consuming and frustrating business in many countries. These frustrations generally multiply where international co-operation is required. In practice government and agencies often tend to give lower priority to helping other countries' investigations than to their own. Responses to requests for information for help with tracing a weapon can be delayed and incomplete, even for purely criminal firearm investigations conducted through INTERPOL. This is even more the case for efforts to trace lines of supply of military SALW found in areas of conflict or instability, where there may be greater political sensitivities and where norms of international co-operation are less clear.

Time delays in themselves pose real problems. Some investigations are time sensitive. Moreover, lines of supply of illicit small arms or firearms are typically long and complex and involve many transactions.

Hampering prevention and control

The overall effect of all of the above problems with marking, record-keeping and tracing is to severely limit the capacity of relevant authorities to trace the sources and lines of supply of illicit, destabilising or excessive SALW. This hampers criminal investigations into weapons involved in illicit trafficking or crime, or losses from official arms stockpiles. It hinders efforts to identify and monitor sources and lines of supply of excessive, destabilising or illicit SALW into conflict-prone or embargoed areas, to identify and close down diversion points and arms trafficking networks, and to trace leaks from official arms stocks.

Weak accountability

Lack of traceability also seriously obstructs efforts to enhance accountability in relation to excessive or unauthorised arms flows. Systems to promote accountability are a vital element of efforts to combat and prevent irresponsible, corrupt or incompetent practices by officials, governments and other relevant bodies. In this context, there is a big difference between being able to collect general intelligence on arms supply lines and being able to use official records to trace the particular transactions and diversion points relating to specific weapons. The latter process provides less contestable evidence of a problem and can be used to establish accountability.

Objectives

The overall objective for the international community should be to establish international standards and mechanisms to ensure that relevant authorities are able rapidly and reliably to identify the source of SALWs of concern and then to trace the lines of supply. This capacity can be used for a number of possible purposes, including:

- identifying and tracing weapons used in crime, as part of specific police investigations;
- identifying diversion points or unauthorised arms transactions, to help efforts to combat and prevent illicit arms trafficking;
- identifying and tracing weapons lost from official stocks and other authorised holdings of SALW due to theft, corruption and neglect, to assist with efforts to ensure appropriate stockpile security;
- identifying and tracing lines of supply of excessive or destabilising flows of arms and ammunitions to assist efforts to prevent and reduce such flows, particularly to war-torn and conflict-prone areas; and
- identifying and tracing lines of supply of arms to countries subject to UN or other arms embargoes, to combat and prevent sanctions-breaking activities.

Measures to enable tracing of SALW are therefore relevant to several key priorities for the international community in general and for the UN 2001 Conference in particular. They improve the capacity of states and other relevant authorities to control SALW and to combat and prevent unauthorised activities. They also help to encourage legality, responsibility and restraint by promoting accountability.

An effective international system to ensure the capacity to trace SALW requires three key elements. Each of these elements is essential, and requires international action to address the existing problems outlined above.

Marking – systems to ensure adequate and reliable marking of every SALW, so that each individual weapon can be identified and traced as required;

Record-keeping – systems to ensure that comprehensive and accurate records are kept on production, holdings, transactions and transfers of SALW, so that sources and lines of supply of individual weapons can be traced using the information contained in the identifying marks on the weapon;

Tracing – mechanisms for international co-operation to enable timely and accurate tracing by relevant authorities of sources and lines of supply.

In developing an international tracing regime for SALW, it is important to recognise two distinct but interrelated challenges.

Firstly, it is important to enhance capacity to trace sources and lines of supply of SALW currently in existence, particularly those weapons that are already a cause for concern. For these, the priority is to improve co-operation in tracing. In spite of the present inadequacies, most existing weapons have sufficient records and identifying marks to enable quite extensive tracing. At a minimum, states need to ensure that requests from other states for assistance in tracing SALW are responded to promptly and accurately, to the extent that existing marks and records allow. Measures are also needed to mark or destroy weapons of concern that are inadequately marked when they are collected or confiscated.

Secondly, it is important to ensure that every SALW that is released into circulation from now on can be traced, so that over time an increasing proportion of weapons in circulation are adequately and reliably marked and recorded. Thus international standards are needed that require each new SALW to be appropriately marked as an integral part of the manufacturing process, and that comprehensive and accurate records are maintained on it. Similarly, programmes are needed to ensure that existing weapons in authorised stocks are properly marked and recorded, to reduce the risk that arms that are not fully traceable enter into circulation.

Emerging International Norms and Standards

International awareness of the need to take measures to enhance traceability of firearms and SALW developed rapidly in the late 1990s. Significant progress has been made toward developing international consensus on basic principles and norms that should be adopted.

Agreements at the UN 2001 Conference in this area can build upon a number of regional and international initiatives and agreements. Prominent amongst these are: the 1999 Report by the UN Group of Governmental Experts on Small Arms;¹ negotiations towards a UN Firearms Protocol;² regional agreements amongst members of the Organisation of American States (OAS),³ the Organisation for Security and Co-operation in Europe (OSCE),⁴ and the Southern Africa Development Co-operation (SADC);⁵ and an initiative on marking by the international firearms manufacturing community.⁶ Building on workshops and publications organised on this topic by Canada and Switzerland in 1999,⁷ Switzerland and France have proposed that the UN 2001 Conference launch negotiations to establish an international mechanism for tracing weapons that contribute to the excessive and destabilising accumulation and spread of SALW.⁸

1999 Report of the UN Group of Experts on Small Arms

The 1999 Report of the UN Group of Governmental Experts on Small Arms includes a number of important norms on marking and tracing. The report recommends that:

- States should ensure that manufacturers apply appropriate and reliable markings of small arms and light weapons as an integral part of the production process. These markings should identify the country of manufacture and also include information that enables the national authorities of that country to identify the manufacturer and serial number, so that these authorities can trace each weapon and co-operate in efforts to combat illicit arms trafficking and undesirable diversions of arms shipments (paragraph 115).
- States are encouraged to make available information on the markings they apply to identify country of manufacture, and to explore the modalities for greater sharing of information (paragraph 116).
- States should adopt and enforce all necessary measures to prevent the manufacture, stockpiling, export, import, transit or other transfer of any unmarked or inadequately marked small arms and light weapons. All unmarked or inadequately marked small arms and light weapons that have been collected, confiscated, or seized should either be expeditiously destroyed or, where appropriate, be adequately marked (paragraph 117).

Regional agreements

The 1997 Inter-American Convention against the illicit manufacturing of and trafficking in firearms, ammunition, explosives and other related materials (the OAS Convention) includes stringent obligations relating to marking and tracing. This includes obligations on States Parties to require:

- at the time of manufacture, appropriate marking of the name of manufacturer, place of manufacture, and serial number; appropriate markings on imported firearms permitting the identification of the importer's name and address; and
- marking on any confiscated or forfeited firearms that are retained for official use.

Article XI obliges States Parties to assure the maintenance for a reasonable time of information necessary to trace and identify illicitly manufactured and illicitly trafficked firearms. It is important to note that the definition of firearms in the OAS Convention is sufficiently broad that virtually every type of small arms and light weapons is covered by it. The OAS Convention also makes provision for co-operation in training in the identification and tracing of firearms (article XV), and establishes a Consultative Committee to promote and facilitate exchange of information and experience with marking and tracing, amongst other matters (article XX).

Emerging International Norms and Standards

More recently, in November 2000, members of the OSCE agreed upon a politically binding Document on Small Arms and Light Weapons (OSCE Document) that includes substantial provisions on marking, record-keeping and related information-exchange measures. OSCE states agreed to:

“ensure that all small arms manufactured on their territory after 30 June 2001 are marked in such a way as to enable individual small arms to be traced. The marking should contain sufficient information which would allow the investigating authorities to determine, at a minimum, the year and country of manufacture, the manufacturer and the weapon’s serial number. This information provides an identifying mark that is unique to each small arm. All such marks should be permanent and placed on the small arms at the point of manufacture. Participating states will also ensure as far as possible and within their competence that all small arms manufactured under their authority outside their territory are marked to the same standard” (Section II.B.1).

In addition, OSCE states agreed that, should any unmarked small arms be discovered in the course of the routine management of their current stockpiles, they will destroy them, or if those weapons are brought into service or exported, they will mark them beforehand with an identifying mark unique to each small arm (Section II.B.2).

As far as record-keeping is concerned, OSCE states agreed to ensure that comprehensive and accurate records of their own holdings of small arms, as well as those held by manufacturers, exporters and importers of small arms within their territory, are maintained and held as long as possible with a view to improving the traceability of small arms (Section II.C). As a confidence-building measure and to assist the relevant authorities in tracing small arms, OSCE states agreed to conduct an information exchange by 30 June 2001 on their national marking systems used in the manufacture and/or import of small arms. They will ensure that such information is updated, as and when necessary, to reflect any changes in their national marking systems (Section II.D).

Other important regional agreements are due to be finalised in 2001 that include provisions on marking and tracing. For example, the Draft SADC Protocol on the control of firearms, ammunition and other related materials, which is expected to be signed at the 2001 SADC summit, includes substantial provisions on marking, record-keeping and tracing in line with the emerging international norms.

UN Firearms Protocol

The draft UN Firearms Protocol also includes important obligations relating to marking, record-keeping and co-operation in tracing. Negotiations on this Protocol are not yet complete, but the draft text is now well developed. Once agreed, this legally binding agreement will almost certainly provide an important cornerstone for any effective international tracing regime. It is concerned with ‘firearms’ rather than ‘SALW’; but in practice the marking and record-keeping obligations are likely at least to cover all categories of portable barrelled small arms and light weapons.

On the basis of the latest draft text,⁹ the Firearms Protocol will require at the time of manufacture of all firearms, appropriate unique marking providing the name of the manufacturer, the country of place of manufacture and the serial number (or other unique marking enabling the manufacturing state authorities to trace the firearm). It will also require appropriate marking on each imported firearm, permitting identification of country of import and, where possible, the year of import, enabling the competent authorities of the country to trace the firearm. If the imported weapon is not properly marked, the importing state is required to mark it with a unique alphanumeric marking. States Parties will further agree to encourage the firearms manufacturing community to develop measures against the removal or alteration of markings (Draft article 9).

Emerging International Norms and Standards

In relation to record-keeping, states will probably be required to ensure that adequate records are kept for at least ten years, so that firearms can be identified and traced. These records must include information on the identifying marks applied at the time of manufacture and also, where relevant, the data on international transfers (licenses and authorisations, countries of export, import and transit, final recipient, and description and quantity of items) (Draft article 8).

As far as co-operation in tracing is concerned, states will be required to co-operate in the tracing of firearms, their parts and components and ammunition that may have been illicitly manufactured or trafficked. Such co-operation shall include prompt and accurate responses to requests for assistance in tracing such firearms and other materials (Draft article 14).

France – Switzerland Initiative

In December 2000, France and Switzerland circulated a Working Paper for consideration by the PrepCom of the UN 2001 Conference, building upon their earlier initiatives to promote international norms and agreed minimum standards relating to marking, record-keeping and tracing. This initiative proposes that the UN 2001 Conference takes action to establish an international tracing mechanism, whereby states commit themselves to co-operate in tracing lines of supply of weapons that contribute to proliferation of SALW, particularly in regions of conflict or tension. It further proposes establishing obligations for States to ensure adequate marking and record-keeping systems to enable such tracing to be carried out effectively. To promote effective implementation, an international consultative body is proposed, together with international co-operation and assistance programmes and a consultation process to involve relevant civil society groups including industry, institutes, and experts.

Developing an International Tracing Regime and the Role of the UN 2001 Conference

These regional agreements and emerging international norms provide a strong basis for developing an international tracing regime for SALW, and for developing decisions at the UN 2001 Conference. This section now considers the role that the UN 2001 Conference could play in developing an effective tracing regime.

This issue is not completely straightforward, because obligations relating to traceability are being developed in parallel through two distinct international frameworks: the UN Firearms Protocol and the UN 2001 Conference process.

- The UN Firearms Protocol focuses on firearms, and is primarily concerned with strengthening international co-operation to combat and prevent illicit manufacturing and trafficking in firearms, where associated with transnational organised crime.
- The UN 2001 Conference process is primarily concerned with combating illicit trafficking and preventing and reducing proliferation of SALW. It aims particularly to establish an international action programme to strengthen international efforts to prevent excessive and destabilising accumulations and flows of SALW.

These efforts are complementary and should be mutually reinforcing. But marking and tracing agreements established within each framework should be designed to ensure that they add up to a coherent and efficient overall international tracing regime.

A historical tendency to focus on the issue of marking has led to some anxiety and confusion about possible overlap and interference between the UN Firearms Protocol and the UN 2001 Conference in this area. The issues become much more clear and transparent if the focus is instead on the tasks of developing international co-operation on tracing.

The UN Firearms Protocol is concerned with enabling tracing of firearms, their parts and components and ammunition that may have been illicitly manufactured or trafficked and that have been used in crime or associated with transnational criminal organisations. The obligations in the Protocol will only require States to co-operate in tracing these weapons. Even though the Firearms Protocol will require all firearms to be marked as an integral part of the manufacturing process, it will not require states to co-operate in tracing such weapons if they contribute to arms proliferation and misuse. This leaves enormous gaps in any international tracing regime for SALW.

Thus there is a major role for the UN 2001 Conference, which should be to help to establish and develop international co-operation to enable tracing of the sources and lines of supply of weapons that contribute to excessive and destabilising accumulations and flows of SALW. This would, for example, include weapons involved in illicit trafficking associated with terrorists and insurgent groups, and also arms that become available in war-torn or conflict-prone areas as a result of inadequate control or restraint by some states.

It is in this context that the focus of the French-Swiss initiative becomes clear, as it proposes that the UN 2001 Conference takes action to establish an international mechanism whereby states commit themselves to co-operate in tracing lines of supply of weapons that contribute to proliferation of SALW, particularly in regions of conflict or tension.

Once established, an international tracing agreement designed to help prevent and reduce small arms proliferation and to combat associated illicit arms trafficking could be the second pillar of an effective overall international tracing regime. The first pillar will hopefully be the complementary agreement to enable tracing of firearms established through the UN Firearms Protocol.

In terms of international law and supporting international institutions, these two pillars would probably remain separate and distinct. But in practice, and particularly at a national level, there seems to be no reason why they should not closely complement and re-inforce each other.

Developing an International Tracing Regime and the Role of the UN 2001 Conference

For many categories of weapons (such as pistols, rifles and semi-automatic weapons), each of these two pillars can be expected to use the same standards and systems of marking and record-keeping. These agreed standards might well be established through the UN Firearms Protocol. Even if they are, the tracing agreement developed through the UN 2001 Conference would still have to be used to establish such standards for SALW that are not adequately covered by the marking provisions of the Firearms Protocol, probably including grenades and most types of light weapons and ammunition.

Moreover, information obtained by tracing illicit trafficking by transnational criminal organisations will often be relevant to efforts to prevent excessive and destabilising flows of small arms, and vice versa. In practice, organisations such as INTERPOL could play important roles in facilitating information exchange for both pillars of the overall regime. In Southern and East Africa, for example, regional INTERPOL offices are already playing an important facilitating role in regional networks to exchange information to prevent or reduce small arms proliferation as well as to assist criminal investigations.

At this stage it may not be possible to negotiate all of the details of an international tracing mechanism in time for agreement at the UN 2001 Conference in July. There are too many specific issues to be resolved. However, it appears both possible and desirable to achieve agreement at the UN 2001 Conference on a strong set of international principles and standards, and to launch follow-on negotiations for a detailed (and possibly legally binding) agreement.

These principles and standards could be directly based on the recommendations of the 1999 Report of the UN Group of Experts on Small Arms, which could usefully be revised and improved in ways inspired, for example, by the OAS and OCSE agreements, the draft UN Firearms Protocol, and the French-Swiss initiative.

Establishing International Co-operation on Tracing

Elaborating norms and principles

The basic international norm to be established in relation to tracing is that every state should ensure that it co-operates in efforts to trace lines of supply of weapons (or their components and ammunition) that contribute to excessive and destabilising accumulations and flows of SALW. States should thus further commit themselves to respond promptly and accurately to requests from other appropriate authorities to assist them in their efforts to trace sources and lines of supply of SALW of concern.

These principles need to be clearly stated in the UN 2001 conference document. However, any detailed international agreement will need to clarify how these norms should be interpreted and implemented. Which bodies have the right to expect states to provide such co-operation: only other states, or also a range of other actors? What type of information do have they a right to expect, and how should such information be used or disseminated? Who decides whether a small arm or light weapon is a 'weapon of concern' that should be traced? These are matters for negotiation. However, the following paragraphs aim briefly to discuss some of the options and issues.

Which bodies should have a right to expect co-operation in tracing?

At a minimum, it appears that states should co-operate with requests from other states for assistance in tracing.

Thus, as a (fictitious) illustration, a government in East Africa (perhaps Uganda, for example) may confiscate some G3 rifles in unauthorised transit through its territory. Their markings identify these weapons to have been produced in Germany. The Ugandan investigating authorities would then have the right to approach the German government for information on these weapons, including where and when they were made and to whom they were initially transferred. The relevant German authorities would then approach Heckler and Koch (the manufacturers) for relevant information, and also their licensing or customs authorities, as appropriate. Within ten days (say), Germany would provide information to Uganda, clarifying that these weapons were part of a batch that were produced in 1978 for use in the German Army, and had subsequently been transferred to Turkey. Uganda could then approach Turkey with specific information it had received on the weapons, transfer dates, and data relating to transfer authorisation documents. Turkey would then respond with information on the next phase in the weapons' life – for example that the weapons had been received as authorised, and had subsequently been legally transferred to a recipient in another state. So the tracing would continue, until for example, the weapons are traced to a state where they had been diverted to unauthorised or covert purposes, or to a broker who is exposed as disreputable, or to an official stockpile from where they were stolen. What ever is discovered, the international tracing process is likely to provide information that can be used to help to combat or prevent unauthorised or irresponsible activities. It should also help to stimulate proper investigations and raise political interest in tackling any problems that have been revealed.

As this example illustrates, it seems clear that a government which finds unauthorised weapons on its territory should have the right to determine that they are weapons of concern and to expect co-operation in tracing. The same should apply to states that discover that weapons that they have authorised for production, transfer or official storage appear to have been diverted to undesirable or illegal purposes: they should be able to trace the problem weapons in order to take corrective or preventive action.

Furthermore, there is a good case for a state to be able to ask an allied or friendly government to trace weapons about which it has a legitimate concern. For instance, in the fictitious example above, Uganda may decide to ask Kenya or the UK to carry out the tracing on its behalf, or ask Germany to take over the task.

Establishing International Co-operation on Tracing

Should the UN or other international or regional bodies have rights to expect states to provide information to enable them to trace SALW of concern? It would, for example, seem appropriate for the UN Secretary-General to have such rights in certain circumstances, for example when weapons concerned may be involved in UN sanctions-breaking activities, or are found in areas where the UN has a peace mission. There are also good arguments that the Secretary-General or other appropriate representatives of the relevant regional security organisation should have the right to expect co-operation in tracing weapons of concern in their region. A possible compromise would be to enable representatives of regional organisations to conduct tracing inquiries when they have been requested to do so by a Member State with a direct interest in the weapons concerned.

There will need to be some restrictions on rights to co-operation in tracing SALW. Governments need to be protected from frivolous or malicious tracing enquiries, and to be reassured that the information they provide will not be used irresponsibly or maliciously. In practice, this may prove to be a fine line to draw. An international consultative mechanism may need to be established to address marginal cases.

Information exchange: As far as the information-exchange is concerned, all partners in the tracing effort will have responsibilities. The party requesting information from a government should provide:

- the identifying marks on the weapons, together with other relevant evidence (for example access to photographs or to the weapons themselves); and
- an explanation of why the weapons have caused concern.

The government receiving the request should then respond accurately within as short a time as possible. Reasonable guidelines on promptness could be 'normally within 10 days but no longer than one month'. If the weapons have been legally transferred to another country, the information provided should enable the tracing effort to continue to the next stage. It should thus include:

- the date of export,
- the importing state,
- the transit states (where applicable),
- the authorised final recipient, and
- details from the transfer authorisation documentation.

If there is no record of the weapons having been transferred out of the country, information should promptly be provided to this effect and subsequently on the results of subsequent investigations into the apparent loss, theft or diversion of the weapons.

Information provided should be used for follow-on tracing activities, and for assisting efforts to prevent similar illicit or destabilising flows. But guidelines will be needed on confidentiality. In general, the detailed tracing information need be shared only amongst the relevant authorities of the states (and international organisations) with a direct interest or involvement. Moreover, it should be possible for the overall findings of tracing exercises to be made more generally available, particularly where systematic or consistent problems are identified. For example, the mechanisms of organisations such as INTERPOL and the World Customs Organisation might be useful for disseminating information relating to suspected diversion points or lines of supply to relevant licensing and enforcement agencies, and some findings should be made available to the interested media and public. This would help to promote preventive action and encourage improved restraint and control.

Establishing International Co-operation on Tracing

International arrangements will also be necessary to facilitate co-operation in tracing efforts. For example, investigating authorities should at least be able immediately to identify the country of manufacture (or last import) from the markings, and be able to obtain assistance from a single national point of contact in any country they need to approach for assistance in tracing. This implies an obligation at least to: standardise ways in which the country of manufacture (or import) is identified in the markings on weapons; establish a single national authority responsible for co-operation in tracing; and exchange information on these. States should further be encouraged to exchange more detailed information on the marking and record-keeping systems they use.

Establishing International Standards on Marking and Record-Keeping

Consistency of marking obligations

The basic norms and standards relating to marking and record-keeping that need to be established at the UN 2001 Conference are essentially those in the 1999 Report of the UN Group of Governmental Experts on Small Arms. In brief, states should ensure that all SALW are marked with unique identifying information at the point of manufacture, and that reliable and comprehensive records are kept to enable accurate and rapid tracing of sources and lines of supply of the weapon throughout its lifetime. No inadequately marked weapons should be held or transferred, and any inadequately marked weapons that are confiscated, collected or otherwise found should be expeditiously marked or destroyed (subject to the requirements of criminal prosecutions). States should take measures to promote the reliability of markings – that is to use marking techniques that make it hard for marks to be removed or altered.

The UN 2001 document should at least clearly establish such norms. However, detailed elaboration of marking and record-keeping obligations will probably need to take place through negotiations after the UN 2001 Conference.

As far as possible, the detailed marking obligations established for a tracing regime within the UN 2001 process should be consistent with those established in the UN Firearms Protocol. Many types of SALW are likely also to fall within the definition of a 'firearm' established in the Protocol. In any case, in many countries some manufacturers, dealers and regulating authorities are likely to be responsible for both firearms and SALW, and it would be better to establish similar marking and record-keeping obligations as far as possible. Hopefully, the Protocol will be finalised by July 2001, in which case the marking obligations might be essentially carried over into the SALW tracing agreement, at least in relation to barrelled types of SALW that will probably be included in the definition of a 'firearm'.

However, there are important further issues to be addressed, such as establishing marking obligations for: non-barrelled SALW; ammunition; parts and components; and for weapons in existing holdings and official stockpiles. Standards for reliable (hard to remove) marking need to be developed. Minimum requirements for record-keeping need to be specified for all types of SALW.

Existing holdings

Many existing SALW in official stocks or authorised holdings are inadequately marked. Measures need to be taken to promote actions to mark such weapons, so that they are traceable if they are misused, lost, stolen or transferred. However, the scale of the task is very large. Many states have large stocks of inadequately marked weapons, for example in military storage facilities. It may be unrealistic to require that every existing weapon is either properly marked or destroyed within a short period of five to ten years.

The priority is to ensure that weapons in circulation or use within operational units are marked – these normally are more vulnerable to theft or diversion than weapons held in reserve in long-term storage. There should be an obligation to ensure that all such weapons are marked or destroyed within a specified time period.

In the short term, weapons held in reserve in secure storage facilities may not need to be properly marked until they are taken out of secure storage. The risks of keeping untraceable weapons in storage need to be fully recognised however. In many countries, official weapons stores can be quite insecure, and all are vulnerable to some extent. Thus it is important to link this exemption with measures and programmes to enhance stockpile security and promote destruction of surplus weapons (see *Biting the Bullet* Briefing No 3, *Stockpile Security and Reducing Surplus Weapons*¹⁰).

Establishing International Standards on Marking and Record-Keeping

Marking all types of SALW

There is now a relatively wide international understanding of systems for marking barrelled SALW such as rifles, pistols and (sub) machine guns. In contrast, there has been relatively little research and international discussion on ways of marking other categories of SALW, including grenade launchers, mortars, portable anti-tank or anti-aircraft systems, and ammunition such as cartridges, grenades, shells and missiles. Consensus on guidelines and minimum standards for marking these types of equipment is still some way from being achieved. Yet these are all involved in illicit trafficking and excessive and destabilising flows in various parts of the world, and need to be traceable.

In principle, there is no reason why each of these types of SALW and ammunition should not be uniquely marked: techniques exist for doing so and it appears that many such weapons are already marked in some way. However, existing marking practices appear to vary greatly, and there are real debates about whether and how to mark small, low cost items or complex or delicate pieces of equipment. For example, most cartridges (or rounds) are not uniquely marked, and there is a reasonable debate about the cost-effectiveness and value of doing so. Perhaps it would be sufficient to uniquely mark batches of cartridges, with chemical tracing agents or through stamping. Similarly, although there is no problem in principle with marking missile or shell casings, for some models of weapon there are complex debates about which parts should be marked. Some of the least easily replaced parts of such weapons may be delicate and hard to access once the weapon has been manufactured.

International guidelines and standards need to be developed in relation to where and how every type of SALW should be marked. Establishing these will be a complex technical task, requiring an international mechanism involving detailed information exchanges and an international panel of technical experts to make recommendations.

Reliable marking

It is harder to remove or alter some types of marks than others. Mechanisms need to be established to identify relatively reliable marking techniques and to promote their use.

There are several possible approaches to improving the reliability of markings. The location and visibility of the markings are important factors, as well as the technologies used.¹¹ If the weapon is marked in several places, the task of removing the marking is increased, and the prospects of being able to recover the marks are improved. For some weapon types, it is feasible to mark delicate components that are likely to be damaged by any attempts to erase the markings. If the visible marks on a weapon are supplemented with invisible marks that can only be detected with specialist knowledge and equipment, the weapons is likely to remain traceable even after determined attempts to remove the markings. Also, markings that go right through the weapon are obviously particularly difficult to remove: for example a technique of marking a weapon with tiny holes using lasers now appears feasible and reasonably cost-effective.

There is now quite substantial knowledge of different techniques for marking weapons in ways that are both hard to remove and reasonably cheap to apply. The challenge is to promote their further development and use internationally. For this purpose, mechanisms for international information exchange and co-operation are needed, to identify good practices and to mobilise technical and financial assistance to promote their adoption. The international panel of technical experts recommended in the French-Swiss initiative would also have an important role to play in this task.

Establishing International Standards on Marking and Record-Keeping

Minimum standards for record-keeping

The maintenance of comprehensive and readily accessible records is essential for tracing. In general, there seems to be little prospect of achieving agreement to establish centralised international records. Nor is this necessary. The primary requirement is that each state has an effective national system for record-keeping. In many states, such systems will involve maintenance of decentralised records by authorised manufacturers, dealers, licensing authorities, regional authorities and customs.

The key international obligation is that these records are properly comprehensive and accessible and are maintained for as long as possible. Sufficient data is required to enable tracing, which implies that data should be held on the unique identifying markings of each manufactured and authorised SALW, and on the manufacture, transfer, holdings, and dealings in each SALW. In relation to minimum periods for which records should be maintained, the UN Firearms Protocol seems likely to establish inadequate minimum standards. It is set to require maintenance for at least ten years, whereas the real requirement is for the prospective lifetime of the weapon concerned – often 50 years or more. It will be a priority for the SALW tracing agreement to establish longer record-keeping requirements.

Implementation and Follow-on Mechanisms

The UN 2001 Conference should include provisions for a follow-up mechanism, including establishing a committee of participating states to periodically review progress in implementing the international action programme and to take appropriate decisions on its future development. It should also establish and encourage a set of mechanisms for national co-operation and assistance, designed to promote, facilitate and co-ordinate implementation of each element of the action programme.

The most prominent decision on follow-on that needs to be taken at the UN 2001 Conference in relation to tracing is to launch a negotiation process to establish a detailed (and preferably legally binding) international agreement on tracing SALW.

There are also a number of mechanisms and programmes that need to be established to promote implementation and further development of tracing capabilities. In the long term, these can be formally established as part of the detailed international agreement that is to be negotiated. However, the UN 2001 Conference itself could launch these processes.

In summary, there are a number of areas in which international actions are required. These include:

- Information exchange on national marking systems (including country identification marks) and on contact details for national focal points for co-operation in tracing.
- An international programme to: identify and disseminate good practices relating to marking, record-keeping and tracing; establish guidelines and minimum standards for marking each type of SALW (including ammunition); and assess and promote reliable marking techniques. This could usefully involve the establishment of an international panel of technical experts to advise on such issues.
- Measures to mobilise assistance in implementing agreed standards and adoption of best technologies and practices. In practice, such assistance should mostly take the form of provision of information, technical advice and training. For example, effective marking can be carried out using technologies that are already available to virtually all manufacturers of SALW. However, some assistance may also be required to establish effective record-keeping facilities or to install new technologies or processes.
- Promote consultations and involvement of industry and other relevant experts and civil society groups. A priority here is to build on the recent initiative by a group of major SALW manufacturers to develop industry standards for marking,¹² for example by extending participation in this process to all manufacturers.

Once a detailed agreement on tracing SALW is negotiated, it is important the agreed standards and co-operation mechanisms develop over time. Thus the agreement should make provision for review and further development of the agreement, as well as for consultations to resolve differences on implementation.

Conclusion

An international tracing regime, establishing international standards and mechanisms to enable tracing of sources and lines of supply of arms, would make a substantial contribution to international efforts to prevent and reduce proliferation and misuse of SALW.

One pillar of such a regime is in the process of negotiation as part of the UN Firearms Protocol, which is expected to include provisions that enable tracing of the sources and lines of supply of illicitly trafficked firearms associated with transnational criminal organisations. An important objective for the UN 2001 Conference is to help to establish the agreements needed to enable tracing of weapons that contribute to excessive and destabilising accumulations and transfers of SALW. If established, this would form the second pillar of the overall regime.

To pursue this objective, the UN 2001 Conference should establish a set of international principles and standards on marking, record-keeping and tracing of SALW. It should further launch negotiations for a detailed (and preferably legally binding) tracing agreement, which sets out necessary rules and obligations and establishes appropriate programmes and mechanisms for international co-operation and assistance to promote implementation.

Endnotes

- ¹ United Nations, Report of the Panel of Governmental Experts on Small Arms, A/52/298, United Nations, New York, 1997; United Nations, Report of the Group of Governmental Experts on Small Arms, A/54/258, United Nations, New York, August 1999.
 - ² Draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention Against Transnational Organised Crime, A/AC.254/4/Add.2/Rev.5 (5 May 2000) and A/AC/254/L/250/Add.5 (September 2000).
 - ³ Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, signed November 1997, (reproduced in UN Document A/53/78 Annex).
 - ⁴ OSCE Document on Small Arms and Light Weapons, FSC.DOC/1/00, Organisation for Security and Co-operation in Europe, Vienna, adopted 24 November 2000.
 - ⁵ Draft SADC Protocol on the control of firearms, ammunition and other related materials. See also Southern Africa Regional Action Programme on Light Arms and Illicit Arms Trafficking, published by Saferworld/ISS, May 1998.
 - ⁶ World Forum on the Future of Sport Shooting Activities (WFSF), see for example: Report of informal workshop on 'Firearms Marking: Model Standards and Common Serial Number Codes', 22-24 June 2000, Olbia, Italy.
 - ⁷ Government of Switzerland, Report of Workshop on Small Arms, 18-20 February 1999, Swiss Federal Department of Foreign Affairs; Government of Switzerland, Chairman's Report of Workshop on Small Arms Monitoring and Control, 21-23 November 1999, Swiss Federal Department of Foreign Affairs; Government of Canada, Marking Small Arms: an examination of methodologies, Department of Foreign Affairs and International Affairs, Canada, February 1999.
 - ⁸ Governments of France and Switzerland, Establishing a tracing mechanism to prevent and reduce excessive and destabilising accumulation and transfer of small arms and light weapons, Working Paper, December 2000. See also Food for Thought Paper, France and Switzerland, 28 February 2000.
 - ⁹ United Nations, Revised Draft Protocol, A/AC.254/4/Add.2/Rev.5 (5 May 2000) and A/AC/254/L/250/Add.5 (September 2000), op cit.
 - ¹⁰ O. Greene, Stockpile Security and Reducing Surplus Arms, Biting the Bullet Project Briefing No 3; BASIC, International Alert and Saferworld, London, September 2000.
 - ¹¹ See for example, discussion in Reports of Workshops of February 1999 and November 1999, Switzerland, and Report on Marking, Canada: see footnote 7.
 - ¹² World Forum on the Future of Sport Shooting Activities (WFSF), 'Firearms Marking: Model Standards and Common Serial Number Codes', Report of Workshop, June 2000, op cit.
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